

RESOLUTION NUMBER R- 299535

ADOPTED ON AUG 03 2004

RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO DESIGNATING AN AREA OF BENEFIT IN OTAY MESA AND THE BOUNDARIES THEREOF, CONFIRMING THE DESCRIPTION OF PUBLIC FACILITIES PROJECTS, THE COMMUNITY FINANCING PLAN AND CAPITAL IMPROVEMENT PROGRAM WITH RESPECT TO PUBLIC FACILITIES PROJECTS, THE METHOD FOR APPORTIONING THE COSTS OF THE PUBLIC FACILITIES PROJECTS AMONG THE PARCELS WITHIN THE AREA OF BENEFIT AND THE AMOUNT OF THE FACILITIES BENEFIT ASSESSMENTS CHARGED TO EACH SUCH PARCEL, THE BASIS AND METHODOLOGY FOR ASSESSING AND LEVYING DISCRETIONARY AUTOMATIC ANNUAL INCREASES IN FACILITIES BENEFIT ASSESSMENTS, AND PROCEEDINGS THERETO, AND ORDERING OF PROPOSED PUBLIC FACILITIES PROJECT IN THE MATTER OF OTAY MESA FACILITIES BENEFIT ASSESSMENT AREA.

WHEREAS, the Council of the City of San Diego [Council] has by its Resolution No. R- 299441 [R-2004-1309] declared its intention to order the acquisition of certain property and the construction of certain public improvements, appurtenances and appurtenant work [Public Facilities Projects], and to designate the Otay Mesa Facilities Benefit Assessment area under the provisions of Ordinance No. O-15318 (New Series) of the Council [Ordinance]; and

WHEREAS, by Resolution No. R- 299440 [R-2004-1308], the Council has approved a document prepared by the Planning Department titled the "Otay Mesa Public Facilities Financing Plan and Facilities Benefit Assessment, Fiscal Year 2005," [Report]; and

WHEREAS, in Resolution No. R- 299441 [R-2004-1309], the Council fixed

August 3, 2004, at the hour of 10:00 o'clock 9.m. at the City Council Chambers, 202 C Street, San Diego, California, as the time and place of hearing protests and objections to the Public Facilities Projects proposed in the Report to be made, the extent of the facilities benefit assessment area of benefit proposed to be designated, and/or to the proposed facilities benefit assessments to be levied upon parcels within the area of benefit; and

WHEREAS, the City Clerk has given notices of the passage of the Resolution of Intention, Resolution No. R-299441 [R-2004-1309], and of the time and place and purpose of the hearing, all as required by Section 61.2205 of the Ordinance; and

WHEREAS, the City Clerk has filed with the Council an affidavit setting forth the time and manner of the compliance with the requirements of the Ordinance for publishing and mailing of the notices; and

WHEREAS, at the time and place stated in the notices, a hearing was duly held by the Council; and during the course of the hearing, the Report was duly presented and considered, and all written protests and objections received, if any, were duly presented, read, heard and considered, and all persons appearing at the hearing and desiring to be heard in the manner of the Report were heard; and a full, fair and completed hearing has been had; and the Council is fully informed in the premises; and

WHEREAS, the Council has examined and considered the community financing plan and capital improvement program with respect to the proposed Public Facilities Projects; the boundaries of the facilities benefit assessment area of benefit; the description of the Public Facilities Projects; the estimated costs for the construction of the Public Facilities Projects and the method pursuant to which the costs are to be apportioned among the parcels within the area of benefit; the amount of the facilities benefit assessments which will be charged to each such

parcel; the basis and methodology upon which automatic annual increases in facilities benefit assessments will be computed, assessed and levied, without the necessity for further proceeding; the amount of the contribution or advance which the City or other public entity will make toward the total cost, all as proposed in the Report, and the proceedings prior thereto, and the evidence presented at the hearing; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, as follows:

1. The hearing has been duly held, and each and every step in the proceedings prior to and including the hearing has been duly and regularly taken. The Council is satisfied with the correctness of the Report, including the community financing plan and capital improvement program with respect to the Public Facilities Projects; the boundaries of the facilities benefit assessment area of benefit; the description of the Public Facilities Projects; the costs for the construction of the Public Facilities Projects, and the method pursuant to which the costs are to be apportioned among the parcel within the area of benefit; the amount of the facilities benefit assessments which will be charged to each such parcel; the basis and methodology upon which automatic annual increases in facilities benefit assessments will be computed, assessed and levied; and the amount of the contribution or advance which the City or other public entity will make toward the total cost; and any and all protests, objections or appeals are overruled and denied. The Council does confirm the proceedings and the Report.

2. The Council orders the proposed Public Facilities Projects to be undertaken and completed as described in the Report and these proceedings.

3. The Council does confirm and approve the community financing plan and capital improvement program with respect to the Public Facilities Projects as set forth in the Report.

4. The Council does confirm and fix the total costs of the Public Facilities Projects financed out of facilities benefit assessments to be the amount shown in the Report, *i.e.*, \$177,018,014.

5. The Council does confirm and fix the boundaries of the facilities benefit assessment area of benefit as shown on the diagram of the area of benefit contained in the Report.

6. The Council does confirm and approve of the method pursuant to which the costs of the Public Facilities Projects are to be apportioned among the parcels within the area of benefit as set forth in the Report and confirms and fixes the amount of the facilities benefit assessments which will be charged to each such parcel to be the amounts shown in the Report subject to automatic annual increases pursuant to Section 7 of this Resolution.

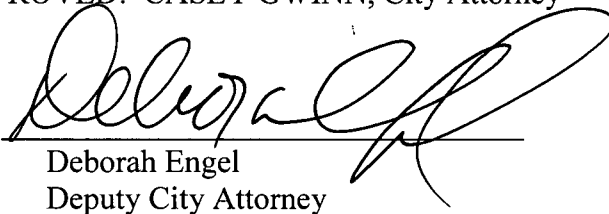
7. The Council does confirm and approve the basis and methodology upon which automatic annual increases in facilities benefit assessments will be computed, assessed and levied, without the necessity for further proceeding as proposed in Resolution No. R- **299441** [R-2004-1309] of the Council and the Report. It shall be the duty and obligation of the Planning Department to make the computations and determinations pursuant to this Section of this Resolution. The City Clerk shall communicate the results to each and every landowner within the area of benefit who has not paid the facilities benefit assessments or portion thereof as fixed by this Resolution by mailing a Notice of Annual Automatic Increase in Facilities Benefit Assessments to the landowners.

8. The Council does confirm and fix the amount of the contribution or advance which the City or other public entity will make toward the total cost to be the amount shown in the Report, *i.e.*, \$999,628,352.

9. The Planning Department is authorized and directed to prepare a map of the boundaries of the area of benefit based on this Resolution and to file the map with the City Clerk in accordance with the provisions of Section 61.2209(a) of the Ordinance. The City Clerk is authorized and directed to record the map in the office of the County Recorder of the County of San Diego.

10. The City Clerk is authorized and directed to execute and record a Notice of Assessment in the office of the County Recorder of the County of San Diego in accordance with the provisions of Section 61.2209(b) of the Ordinance.

APPROVED: CASEY GWINN, City Attorney

By 
Deborah Engel
Deputy City Attorney

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06/02/04
Or.Dept:Plan.
R-2004-1310
R-2004-1308 (comp.)
R-2004-1309 (comp.)
R-2004-1311 (comp.)